

REMARKS/ARGUMENTS

35 USC §102 (b)

Reconsideration and allowance are requested of Claims 1, 6-10, 13, 21, 22 and 24-26. Allowance is requested of new Claims 28-33. MPEP § 706.02(b) states that a 35 USC § 102(b) rejection can be overcome by persuasively arguing that the claims are patentably distinguishable from the prior art reference, and/or by amending the claims to patentably distinguish over the prior art.

Invalidity for anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference. Carella v. Starlight Archery and Pro Line Co., 804 F.2d 135, 138, 231 USPQ 644, 646 (Fed.Cir.1986). There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Foundation v. Genentech, Inc., 927 F.2d 1565, 1576 (C.A. Fed. 1991).

Claim 1

Applicant respectfully submits that Claim 1 is distinguishable from Jones because Jones does not disclose or suggest a "spacing member." To aid the Examiner in the understanding of Applicant's invention, Applicant has attached hereto several pages printed from Applicant's website. If the Examiner desires further information regarding Applicant's invention, the Examiner can access Applicant's website at www.bowrak.com. Applicant's Claim 1 claims three separate elements: a support member, a spacing member, and an engagement member. As defined on page 10, lines

4-6 of applicant's specification, the "supporting member 2 is illustrated as a trough . . ." capable of supporting a bow string from which the stringed bow hangs downwardly. In order to comfortably hold the bow at the hunter's side, Applicant's specification states that a spacing member must "extend [the] support [] a selected distance from a hunter's body and below the hunter's waist" (Applicant's specification page 12, line 3).

Jones discloses a "J-shaped tool support member 20" comprising an inner vertical arm 22, a base support 24, and an outer arm 26. (Jones Col. 3, lines 17-20). Jones does not disclose any separate element that can be considered a "spacing member" which spaces the support member from the user's body. In the Appendix to the Examiner's 8-11-03 Office Action, the Examiner labels a portion of Jones' device as a "spacing member", however, this labeled "spacing member" is not a separate element because it is merely part of the support member. Examiner's labeled "spacing member" does not hold the support member outward from the user's body because it does not extend outward past the engagement member. The "spacing member" illustrated by the Examiner functions only to hold the hammer or other tool in place, it does not "extend [the] support [] a selected distance from a hunter's body and below the hunter's waist . . ." as does Applicant's spacing member. (Applicant's specification page 12, line 3). Examiner's labeled "spacing member" is not a separate element physically nor is it distinct functionally from Jones' labeled support member 20. Applicant's claimed invention is therefore distinguishable because, as discussed above, invalidity for anticipation requires that all of the elements and limitations of the claim must be found

within a single prior art reference. Carella v. Starlight Archery and Pro Line Co., 804 F.2d 135, 138, 231 USPQ 644, 646 (Fed.Cir.1986).

Applicant's spacing member provides a significant advantage over Jones. Applicant's spacing member extends the support member out away from a hunter's body so that the bow hanging downwardly from the device does not interfere with the hunter's legs as the hunter is walking. This functional element is not suggested in Jones because the hammer or other "T-shaped tools" that are to be used in Jones' device are not shown to hang down so far as to interfere with the user's legs.

Claims 9 and 10

Applicant's Claims 9 and 10 claim the spacing member comprising a wall or arm "having an inward section and an outward section, said outward section being combined with the support member and said inward section being combined with the engagement member." As discussed above, Jones does not disclose a "spacing member" and therefore does not disclose Applicant's Claims 9 and 10. However, even if Jones did disclose a spacing member as illustrated in the Examiner's Appendix, Jones clearly does not disclose a spacing member wall or arm having inward and outward sections.

Claim 26

Applicant's Claim 26 claims that the "support member inward section is adjustable." Applicant respectfully submits that Jones does not disclose this limitation because it is the support member outward section in Jones that is flexible as shown by Jones' FIGS. 3 and 4.

Claim 27

Applicant's Claim 27 claims that the spacing member comprises "a reinforcement body." This is shown in Applicant's FIG. 3 and described on page 11, lines 4-8. As discussed above, Jones does not disclose a spacing member, however, even if Jones did disclose a spacing member, Jones does not disclose "a reinforcement body" combined with a spacing member. The reinforcement body in Applicant's claimed invention helps to minimize the downward deflection of the support member under the weight of the bow. (Specification page 11, line 5-6). Jones discloses no similar reinforcement for the support of a hammer or other T-shaped tool.

New Claims 28 and 29

Applicant respectfully submits that new Claims 28 and 29 are not anticipated by Jones because Jones' specification does not disclose a spacing member extending outward from the user's body. Applicant's Claim 28 claims that "the spacing member extends the support member outwardly from the hunter's body extending at least some distance past the engagement member". Applicant's new Claim 29 adds that the spacing member extends outward "at least 2 centimeters."

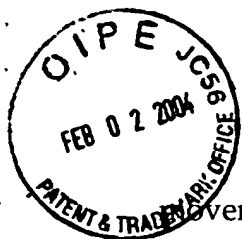
The "spacing member" labeled by the Examiner in the Examiner's Appendix is referred to as a vertical arm 22 in Jones' specification, with no reference to outward or horizontal extension. Furthermore, Jones' specification states that the "inner vertical arm 22 . . . descends into bulb shaped support 24," again with no reference to horizontal extension. (Jones Col. 3, lines 22-23). As discussed above, Jones does not disclose a "spacing member" element, however, even if Jones did, Applicant's Claims 28 and 29 would not be anticipated by Jones because the "spacing member" illustrated in the

Examiner's Appendix does not extend outwardly past the engagement member. The purpose and definition of Applicant's spacing member, as discussed above, is to put the support member at a distance away from the hunter's body so the hunter's bow does not interfere with the hunter's legs as he/she is walking. This element and function is not disclosed in Jones.

New Claims 30 and 31

Applicant has removed the adjustability limitation from Claim 1, and added it in new Claims 30 and 31. Applicant respectfully submits that Claims 30 and 31 are distinguishable from Jones because they claim the adjustability of the spacing member and engagement member as shown in Applicant's FIG. 7 and described in Applicant's specification on page 14, lines 1-8. With regard to Applicant's Claim 30 and the adjustability of the spacing member, Applicant submits that Jones does not teach a "spacing member", as discussed above. Therefore, Jones cannot teach the adjustment of a spacing member in the horizontal direction away from the hunter's body as claimed in Applicant's Claim 30.

Even if Jones did teach a spacing member, which Applicant is not stating that it does, Jones' horizontal adjustment cited by the Examiner does not "move the support member relative to the hunter". Jones teaches that the flexible tensioned jaw 28 can be adjusted "to snugly enclose the individual structures of the front head 11 portion [of the hammer]" Jones Col. 3, lines 37-39. Although the flexible jaws 28 of Jones may be able to be molded or bent to hold different sized tools, Jones does not disclose changing the distance of the tool relative to the user's body. The lack of horizontal



movement is illustrated by comparing Jones' FIGS. 3 and 4 wherein the base support 24 remains in the same position horizontally relative to the engagement member as its flexible tension jaw 28 is bent inward and outward.

Similarly, Applicant's Claim 31 claims the adjustability of the engagement member in the vertical direction. Jones does not disclose adjustability in the vertical direction as seen by comparing Jones' FIGS. 3 and 4. The base support 24 of Jones remains in the same position vertically as its flexible tension jaw 28 is bent inward and outward.

It is submitted that this response places Applicant's application in condition for allowance, and therefore further and favorable action on this application is requested.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 28, 2004.


Ryan N. Carter, Registered Representative